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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,922	02/09/2001	Omar M. Buazza	5040-04207	9323

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EXAMINER

JARRETT, RYAN A

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,922

Applicant(s)

BUAZZA ET AL.

Examiner

Ryan A. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 278-284, 286, 288-292 and 443-448 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 278-284, 286, 288-292 and 443-448 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/21/05, 6/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 278-284, 286, 288-292, 443-448 are pending in the application.

Response to Arguments

2. Applicant's arguments filed 4/21/05 have been fully considered but they are not persuasive.

Regarding claim 278, Applicant argues that Kachel does not appear to teach or suggest curing of the lens forming composition using activating light. Applicant admits that Kachel describes the use of activating light in the context of curing a coating. It is this coating of Kachel that corresponds to the claimed "lens forming composition". The coating composition of Kachel is a part of the overall lens end product, and therefore can be considered a "lens forming composition".

Regarding claim 289, the Examiner's arguments with respect to claim 278 apply here as well. The spin coater of Kachel (e.g., pg. 6 lines 38-58, pg. 17 lines 45-54) can read on the "lens curing unit" of claim 289 since the spin coater of Kachel exposes the molds to a suitable dose of actinic light in order to partially polymerize, or cure, the coating. Alternatively, the oven of Kachel (e.g., pg. 12 lines 29-35) can also read on the "lens curing unit" of claim 289. These ovens are "preprogrammed to go through a predetermined heating and cooling cycle that provides for curing of the resin at the proper temperatures to provide a quality lens. Although these ovens do not use an

activating light source to cure the molds, that is not relevant to claim 289 since claim 289 does not claim this feature.

In response to applicant's argument that Powers and Kachel are nonanalogous art, or not properly combinable, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Applicant argues, "it would not be obvious that the mold members of Kachel, which are used for thermal curing of lens forming compositions, could be substituted for the mold members of Powers." However, the actual mold members of Kachel are not the items that are being combined with Powers here. Power teaches the use of his own mold members, so there is no reason to "use" the mold members of Kachel here. What is actually being combined here is the mold "identification marking" of Kachel, which comprises a bar code. The Kachel reference was used in this case since bar codes contain numerical sequences. The Powell reference discloses only a mold identification "code", but doesn't say specifically what type of code it is. Therefore, with this in mind, the Applicant's argument that Kachel is not properly combinable with Powers does not seem to bear any merit here.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 278-284, 286, 288-292, 443-448 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powers 6,228,289 in view of Kachel EP 0318164 A2. Powers et al. clearly discloses most all features of the Applicant's claims (e.g., col. 2 line 45 – col. 7 line 56), including analyzing prescription information to determine the front mold, the back mold, and the gasket for producing the eyeglass lens, wherein the front mold member comprises a front mold identification marking, the back mold member comprises a back mold identification marking, the gasket member comprises a gasket identification marking, wherein the front mold identification marking comprises a code, and wherein the back mold identification marking comprises a code, and wherein the gasket identification marking comprises a code; wherein the operations further comprise producing a visual display of the front mold identification code, the back mold identification code, and the gasket identification code subsequent to analyzing the prescription data (e.g., col. 30 line 61 – col. 31 line 3).

Powers does not appear to explicitly disclose that the front mold identification marking or code comprises an alphanumeric sequence, and that the back mold identification marking or code comprises an alphanumeric sequence, and that the gasket identification marking or code comprises an alphanumeric sequence; wherein the operations further comprise producing a visual display of the front mold identification marking, the back mold identification marking, and the gasket identification marking subsequent to analyzing the prescription data.

However, Kachel discloses a front mold identification marking comprising a barcode, and a back mold identification marking comprising a bar code, and a gasket identification marking comprising a bar code (pg. 4 lines 35-41). Kachel also discloses a visual display means for indicating which gasket and mold are required for a given prescription (pg. 4 lines 9-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to mark the molds and gaskets of Powers with an alphanumeric sequence and to visually display this number subsequent to analyzing the prescription data since Kachel teaches marking molds and gaskets with a barcode, which is functionally equivalent to marking the molds and gaskets with an alphanumeric sequence (in fact most if not all barcodes also contain numerical sequences), and Kachel also discloses visually displaying the selected molds and gaskets, which is functionally equivalent to displaying the alphanumeric sequence of the molds and gaskets.

5. Claims 278-284, 286, 288-292, and 443-447 are additionally rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0318164 A2 ("Kachel"). Kachel discloses a computer software program for determining a front mold, a back mold and a gasket which together produce a mold cavity, the mold cavity being configured to hold a lens forming composition, wherein the lens forming composition is at least partially cured by activating light to produce an eyeglass lens having a predetermined prescription and wherein the software program comprises a plurality of instructions configured to perform operations comprising:

analyzing prescription information to determine the front mold, the back mold, and the gasket for producing the eyeglass lens (e.g., pg. 4 lines 1-25 and lines 35-41); and determining curing conditions for a lens based on the eyeglass prescription (e.g., pg. 6 lines 38-58, pg. 12 lines 29-35, pg. 17 lines 45-54), wherein the curing conditions comprise a dosage of activating light, and wherein the prescription information is analyzed to determine the dosage of activating light required to at least partially cure the lens forming composition (e.g., pg. 6 lines 38-58, pg. 17 lines 45-54);

wherein the prescription information comprises a sphere power, a cylinder power, and a lens location; wherein the prescription information comprises a sphere power, a cylinder power and a lens location, and wherein the prescription information is analyzed by correlating the sphere power, cylinder power and the lens location to a record in an information database; wherein the prescription information further comprises monomer type (inherent) and lens type; wherein the prescription information comprises a sphere power, a cylinder power, an add power and a lens location; wherein the prescription information comprises a sphere power, a cylinder power, an add power, and a lens location and wherein the prescription information is analyzed by correlating the sphere power, the cylinder power, the add power, and the lens location to a record in an information database (e.g., pg. 12 lines 52-58, Fig. 17A);

wherein the operations further comprise: controlling a lens curing unit, the lens curing unit being configured to cure the lens forming composition, wherein controlling the lens curing unit comprises operating the lens curing unit such that the curing conditions are produced (e.g., pg. 6 lines 38-58, pg. 12 lines 29-35, pg. 17 lines 45-54);

wherein the operations further comprise allowing the eyeglass prescription to be altered after the eyeglass prescription is collected (e.g., pg. 12 lines 52-58, pg. 13 lines 1-9);

wherein the operations further comprise storing the eyeglass prescription on a computer readable media (e.g., pg. 12 lines 52-58, pg. 13 lines 1-9);

wherein the operations further comprise controlling a coating unit, the coating unit being configured to cure the lens forming composition (e.g., pg. 9 lines 50-58, pg. 14 lines 32-44);

collecting prescription information which defines the eyeglass prescription (e.g., pg. 4 lines 17-20);

wherein the dosage of activating light comprises an intensity of activating light required to at least partially cure the lens forming composition (e.g., pg. 6 lines 38-58, pg. 17 lines 45-54);

wherein the curing conditions comprise an amount of time required for post-cure; wherein post-cure time comprises an amount of time required for treating the at least partially cured lens composition with heat and additional activating light in a post-cure unit (e.g., pg. 18 lines 1-4);

wherein the curing conditions comprise an amount of time required for annealing the formed eyeglass lens (e.g., pg. 12 lines 52-58).

Kachel does not explicitly disclose that the front mold identification marking comprises an alphanumeric sequence, and that the back mold identification marking

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comprises an alphanumeric sequence, and that the gasket identification marking comprises an alphanumeric sequence; wherein the operations further comprise producing a visual display of the front mold identification marking, the back mold identification marking, and the gasket identification marking subsequent to analyzing the prescription data.

However, Kachel does disclose that the front mold identification marking comprises a barcode, and that the back mold identification marking comprises a bar code, and that the gasket identification marking comprises a bar code (pg. 4 lines 35-41). Kachel also discloses a visual display means for indicating which gasket and mold are required for a given prescription (pg. 4 lines 9-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to mark the molds and gaskets of Kachel with an alphanumeric sequence and to visually display this number subsequent to analyzing the prescription data because Kachel discloses marking the molds and gaskets with a barcode, which is functionally equivalent to marking the molds and gaskets with an alphanumeric sequence (in fact many if not all barcodes also contain a numerical sequence), and Kachel also discloses visually displaying the selected molds and gaskets, which is functionally equivalent to displaying the alphanumeric sequence of the molds and gaskets.

6. Claim 448 is additionally rejected under 35 U.S.C. 103(a) as being unpatentable over Kachel as applied to claim 278 above, and further in view of Powers U.S. Patent No. 6,228,289. Kachel does not appear to disclose that determining the intensity

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comprises analyzing the prescription information and determining a type of filter to be used in the lens-curing unit. However, Powers discloses an apparatus and method for preparing an eyeglass lens that determines an intensity of activating light of a lens curing unit by analyzing prescription information and determines a type of filter to be used in the lens curing unit (e.g., col. 3 lines 49-57). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kachel with Powers since Powers teaches that different filters can be used to obtain different intensity values of activating light in a lens curing unit. Additionally, Powers teaches that one advantage of using a "programmable intensity" LCD panel filter is that a pattern may be altered during a curing cycle. For example, the pattern of light and dark regions may be manipulated such that a lens is initially cured from the center of the lens, then the curing may be gradually expanded to the outer edges of the lens. This type of curing pattern may allow a more uniformly cured lens to be formed (col. 3 lines 18-32).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

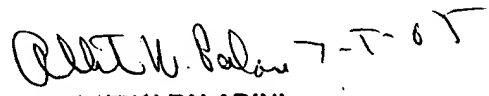
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan A. Jarrett whose telephone number is (571) 272-3742. The examiner can normally be reached on 10:00-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan A. Jarrett
Examiner
Art Unit 2125

6/28/05


ALBERT W. PALADINI
PRIMARY EXAMINER